

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARKELLE NEAL TAYLOR,

Petitioner,

No. CIV S-05-0788 MCE GGH P

vs.

THOMAS CAREY, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding through counsel, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On August 7, 2008, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Petitioner has filed objections to the findings and recommendations.


In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by

proper analysis.¹

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed August 7, 2008, are adopted in full;
- and
2. Petitioner's application for a writ of habeas corpus is denied.

Dated: October 7, 2008


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE

¹ Petitioner raised a Batson claim alleging that the prosecutor improperly struck an African American potential juror, Mr. Hubbard. The prosecutor told the trial court that he struck Mr. Hubbard because he had a bachelors degree in theology and she was concerned that this religious background would make him sympathetic to defendant. The trial court found that this was a race neutral reason. In denying the Batson claim, the magistrate judge observed that petitioner did not argue that the record contained any evidence suggesting that the prosecutor failed to strike any white potential jurors based on their religious views. In his objections, petitioner argues that the prosecutor did not question one of the potential jurors who stated in their questionnaire that their spouse was retired from Christian Brothers Catholic High School. Attached to the objections is a copy of this questionnaire. That a potential juror's spouse retired from employment at a Catholic high school is quite different from a potential juror who obtained a bachelor's degree from a four year bible college. This new information does not change the analysis of this claim in the findings and recommendations.